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ABSTRACT

Prepared as a report to Representative Cardiss Collins as part of an ongoing review of the implementation of Title IX of the Education Amendments of 1972, this document examines the current status of gender equity in intercollegiate athletics. Agencies with oversight responsibility for public higher education in each of the 50 states and the District of Columbia were queried. In addition, eight studies of gender equity in intercollegiate athletics were reviewed. Survey results revealed that 22 states had laws or other requirements specifically addressing gender equity in intercollegiate athletics, and 13 of the 22 states reported having full- or part-time staff responsible for gender equity issues. The eight studies showed that women's athletics programs have made slight advances since 1992 as measured by the number of sports available to women students, the number of females participating in athletics, and the percentage of scholarship expenditures for women's sports. The studies also show, however, that women's programs remain behind men's programs as measured by the percentage of female head coaches, comparable salaries for coaches, and ratio of student athletes to undergraduate enrollment. Five appendices to the document cover: (1) the scope and methodology of the study; (2) summary of survey responses; (3) summary of the eight studies; (4) organizations contacted for this report; and (5) comments from the Department of Education. Data tables are included. (Contains 16 references.) (ND)

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United States General Accounting Office

GAO

Report to the Honorable Cardiss Collins, House of Representatives

October 1996

ED 402 300

INTERCOLLEGIATE ATHLETICS

Status of Efforts to Promote Gender Equity

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United States
General Accounting Office
Washington, D.C. 20548

Health, Education, and
Human Services Division

B-274047

October 25, 1996

The Honorable Cardiss Collins
House of Representatives

Dear Ms. Collins:

More than 100,000 American women now participate in intercollegiate athletics each year. This is a four-fold increase since enactment of title IX of the Education Amendments of 1972. Title IX prohibits sex discrimination in any education program or activity, including intercollegiate athletics, at colleges and universities (hereafter referred to simply as "colleges") receiving federal financial assistance.[1] Some have noted this increase as a move toward "gender equity" in athletics—that is, progress toward a fair distribution of athletic opportunity and resources between men's and women's athletic programs. But many have pointed to the gap that still remains in overall opportunity between men's and women's programs.

For example, in 1992, the National Collegiate Athletic Association (NCAA)[2] reported that although the numbers of male and female undergraduates enrolled at college campuses in 1991 were roughly the same, women constituted about 30 percent of all student athletes at the time, and women's programs received about 23 percent of the athletic operating budgets. Also in 1992, we reported on the gender and compensation of athletic department personnel at NCAA Division I schools—typically those schools with larger athletic programs. We found, for example, that men held all the athletic director, head football coach, and head coach for men's basketball positions, except at one school, where a woman was the athletic director. Also, head coaches for women's basketball always had lower average compensation than head coaches for men's basketball.[3]

To assist your ongoing review of the implementation of title IX, you asked us for further information on gender equity in intercollegiate athletics. Specifically, you asked us to determine (1) the steps the Department of Education and NCAA have taken since 1992 to promote equity between men

[1]In this report, "federal financial assistance" means financial assistance from the Department of Education or any agencies delegating jurisdiction to the Department.

[2]NCAA is a voluntary, unincorporated association that administers intercollegiate athletics for nearly 1,000 4-year colleges and universities.

[3]Intercollegiate Athletics: Compensation Varies for Selected Personnel in Athletic Departments (GAO/HRD-92-121, Aug. 19, 1992).

and women participating in intercollegiate athletics, (2) the steps states have taken to promote gender equity in athletic programs at colleges, and (3) what existing studies show about the progress made since 1992 in promoting gender equity in intercollegiate athletics.

We gathered information on efforts to promote gender equity at the national level from the Department and NCAA and obtained information on states' efforts by surveying each of the 50 states and the District of Columbia. We also consulted academic researchers and professional organizations and identified eight major studies that evaluated the progress being made toward gender equity in intercollegiate athletics. The studies were all national in scope and were issued since 1992. We reviewed each study and summarized its key findings but did not verify the accuracy of the information presented in the studies. (See app. I for details of our scope and methodology.)

Results in Brief

In order to continue the move toward gender equity in intercollegiate athletics, the Department of Education, NCAA, and the states have taken a variety of actions. The Department's strategy for addressing gender equity issues in intercollegiate athletics has been to prevent title IX violations from occurring as well as to investigate the relatively few athletic complaints that are filed each year. The preventive activities emphasized by the Department's Office for Civil Rights (OCR) include clarifying its policies on complying with title IX and making additional technical assistance available to colleges to help them meet title IX's requirements. OCR also appointed a National Coordinator for Title IX Athletics to help effectively manage these title IX activities. OCR has put less emphasis on compliance reviews in recent years.

Since 1992, NCAA has created a task force to examine gender equity issues and has adopted a number of its recommendations. For example, NCAA now requires certification that the athletic programs at all Division I schools meet NCAA-established gender equity requirements, which include preparing an institutional plan describing gender equity goals and a timetable for their achievement. NCAA also educates and trains its member schools in how to comply with title IX.

States vary considerably in their efforts to promote or ensure gender equity in intercollegiate athletics. For example, 22 states reported having laws or other requirements specifically addressing gender equity in intercollegiate athletics, and 13 of the 22 states told us that they have full-

or part-time staff responsible for gender equity issues. In addition, eight states use indicators such as female student athlete participation rates to measure schools' progress toward gender equity. Most of the eight states using this indicator reported that progress has been made toward gender equity since implementation of state efforts.

While gender equity has yet to be fully achieved in intercollegiate athletics, incremental gains continue to accrue. Results from eight national gender equity studies reinforce that gains have occurred since 1992 in the number of women's sports that schools offer, the number of female students participating in athletics, and the percentage of scholarship funds available to female student athletes. For example, many schools have recently added, or plan to add within the next 3 years, at least one women's athletic program. The studies also show, however, that many of the schools' women's programs lag behind those for men when comparing such factors as the percentage of female head coaches, the salaries paid to coaches, and the proportion of women student athletes to the total undergraduate enrollment (women often constitute half of all undergraduates but a little over one-third of student athletes).

Background

Title IX prohibits discrimination on the basis of sex in any education program or activity, including intercollegiate athletics, at colleges receiving federal financial assistance.[4] The Department's OCR is responsible for enforcing federal civil rights laws as they relate to schools, including title IX. In fiscal year 1995, OCR operated on a $58.2 million appropriation and with 788 full-time-equivalent staff.

Federal regulations implementing title IX became effective in 1975 and specifically required gender equity in intercollegiate athletics. The regulations gave colleges a 3-year transition period (through July 21, 1978) to comply fully with the regulations' requirements that equal athletic opportunity be provided for men and women. In 1979, OCR issued a Policy Interpretation providing colleges with additional guidance on what constituted compliance with the gender equity requirements of title IX. Under the Policy Interpretation, OCR applies a three-part test to help determine whether colleges provide equal athletic opportunity to male and female student athletes. To help determine whether equal athletic opportunity exists, OCR assesses

[4]Title IX of the Education Amendments of 1972, P.L. 92-318, as amended (20 U.S.C. §1681 et seq.).

- whether "intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments";
- whether, when "the members of one sex have been and are underrepresented among intercollegiate athletes . . . the institution can show a history and continuing practice of program expansion which is demonstrably responsive to the developing interests and abilities of the members of that sex"; or
- whether, when "the members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a history and continuing practice of program expansion, as described above . . . it can be demonstrated that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program."

Colleges must meet any one of the three criteria of the test.

In addition to the three-part test, OCR may use other factors to assess equality of opportunity in intercollegiate athletics, including the financial assistance and travel expenses provided to student athletes, the degree of publicity provided for athletic programs, the extent to which colleges recruit student athletes, and the extent of opportunities to participate in intercollegiate competition. OCR also assesses coaches' assignments and compensation insofar as they relate to athletic opportunity for students.

OCR both investigates discrimination complaints and conducts compliance reviews. Compliance reviews differ from complaint investigations in that they are initiated by OCR. Moreover, compliance reviews usually cover broader issues and affect significantly larger numbers of individuals than most complaint investigations do, although some complaint investigations can be just as broad in scope and effect. OCR selects review sites on the basis of information from various sources that indicates potential compliance problems. OCR is authorized to initiate administrative proceedings to refuse, suspend, or terminate federal financial assistance to a school violating title IX. However, in the more than 2 decades since title IX was enacted, according to an OCR official, the Department has not initiated any such administrative action for athletic cases because schools have complied voluntarily when violations have been identified.

In addition to OCR's enforcement of title IX, the Department implements the Equity in Athletics Disclosure Act. Under the act, coeducational colleges offering intercollegiate athletics and participating in any federal student financial aid program are required to disclose certain information,

by gender, such as the number of varsity teams, the number of participants on each team, the amount of operating expenses, and coaches' salaries. This information must be reported separately for men's and women's teams, and colleges were to have prepared their first reports by October 1, 1996; thereafter, reports are to be prepared annually by October 15th. Colleges must make the information available to students, potential students, and the public. Reports are not required to be submitted to the Department, but copies must be made available to the Department upon request.

NCAA is a key organization in intercollegiate athletics. It is a voluntary, unincorporated association that administers intercollegiate athletics for nearly 1,000 4-year colleges and universities. NCAA member colleges belong to one of three divisions, the specific division generally depending on the number of sports the college sponsors. Typically, colleges with the largest number of athletic programs and facilities belong to Division I, and those with smaller programs are in Division II or III. Division I schools are further divided into three categories, Divisions I-A, I-AA, and I-AAA, with those that have the larger football programs generally placed in Division I-A.

OCR Emphasizes Both Prevention and Complaint Investigations

OCR's strategy for encouraging gender equity in intercollegiate athletics emphasizes both preventing title IX violations and investigating complaints, although it receives relatively few complaints about alleged violations. Principal elements of OCR's preventive approach include issuing guidance and providing technical assistance. In addition, a National Coordinator for Title IX Athletics has been appointed to manage title IX activities. OCR also considers compliance reviews important to prevention but has conducted few of them in recent years.

Guidance Issued to Clarify Title IX Three-Part Test

OCR issued its "Clarification of Intercollegiate Athletics Policy Guidance" in January 1996 in response to requests from the higher education community to clarify the three-part test criteria presented in the 1979 Policy Interpretation. The Policy Interpretation allowed colleges' intercollegiate athletic programs to meet any one of the three criteria of the test to ensure that students of both sexes are being provided nondiscriminatory opportunities to participate in intercollegiate athletics.

In 1994 and 1995, OCR initiated focus groups to obtain a variety of views on its title IX guidance on intercollegiate athletics. Comments from the focus

groups indicated that clarification of the three-part test was needed. While OCR was developing the clarification, the Congress held hearings in May 1995, during which concerns were expressed that the three-part test was ambiguous, thus confirming the need for additional guidance. Subsequently, congressional members asked the Assistant Secretary for Civil Rights to clarify OCR's policy on the three-part test. The resulting 1996 clarification elaborates upon each part of the three-part test of equal athletic opportunity, provides illustrative examples of its application, and confirms that colleges are in compliance if they meet any one part of the test.

The clarification states that a college meets the first criterion of the test if intercollegiate participation opportunities are substantially proportionate to enrollments. Such determinations are made on a case-by-case basis after considering each college's particular circumstances or characteristics, including the size of its athletic program. For example, a college where women represent 52 percent of undergraduates and 47 percent of student athletes may satisfy the first part of the three-part test without increasing participation opportunities for women if there are enough interested and able students to field and support a viable team.

The second part of the test concerns program expansion. OCR's clarification focuses on whether there has been a history of program expansion and whether it has been continuous and responsive to the developing interests and abilities of the underrepresented sex. The clarification does not identify fixed intervals of time for colleges to have added participation opportunities. To satisfy the second part of the test, a college must show actual program expansion and not merely a promise to expand its program.

Under the third part of the test, a determination is made whether, among students of the underrepresented sex, there is (a) sufficient unmet interest in a particular sport to support a team, (b) sufficient ability to sustain a team among interested and able students, and (c) a reasonable expectation of intercollegiate competition for the team in the geographic area in which the school competes. To make its determination, OCR evaluates such information as requests by students to add a sport, results of student interest surveys, and competitive opportunities offered by other schools located in the college's geographic area.

Since fiscal year 1992, OCR has investigated and resolved 80 intercollegiate athletics complaints to which the three-part test was applied. Of these 80

colleges, 16 either demonstrated compliance or are taking actions to comply with part one; 4, with part two; and 42, with part three. The remaining 18 schools have yet to determine how they will comply because they are still implementing their settlement agreements. These agreements obligate the schools to comply with one part of the three-part test by a certain date, but OCR's monitoring efforts do not yet indicate which part of the test they will satisfy.

Technical Assistance Provided Through Varied Activities

OCR provides technical assistance through such activities as participating in on-site and telephone consultations and conferences, conducting training classes and workshops, and disseminating educational pamphlets. For example, OCR staff conduct title IX workshops for schools, athletic associations, and other organizations interested in intercollegiate athletics. Although OCR could not tell us the total number of technical assistance activities it conducted specific to title IX in intercollegiate athletics, it did provide 47 examples of national, state, or local title IX presentations made between October 1992 and April 1996. OCR also coordinates title IX education efforts with NCAA. For example, the Assistant Secretary for Civil Rights spoke at an NCAA-sponsored title IX seminar in April 1995, and OCR representatives have participated in subsequent NCAA-sponsored seminars.[5]

National Coordinator Manages Title IX Athletics Activities

The Assistant Secretary for Civil Rights created the position of National Coordinator for Title IX Athletics in 1994. According to the National Coordinator, who reports directly to the Assistant Secretary, this position was created to (1) improve the coordination of resources focused on gender equity in athletics among OCR's 12 offices; (2) prioritize management of title IX activities; (3) ensure timely, consistent, and effective resolution of title IX cases and other issues; and (4) ensure all appropriate OCR staff are trained in conducting title IX athletics investigations in accordance with revised complaint resolution procedures.[6]

The National Coordinator told us the creation of the position has resulted in greater consistency in resolving athletics cases and faster responses

[5]OCR has also worked with other executive agencies, such as the Department of Justice, in support of title IX policies and practices.

[6]In 1994, to improve the timeliness, documentation, and quality of its investigations and reviews and to maximize the use of its available resources, OCR issued a revised Case Resolution Manual describing a streamlined approach to resolving and tracking civil rights complaint cases.

from OCR offices to athletics inquiries. These improvements were accomplished, in part, by more frequent communication between the National Coordinator and OCR offices using a recently implemented national automated communications network, improved on-the-job training for OCR staff in case resolution, and the establishment of a central source of title IX athletics information.

Few Complaints Filed

Although OCR investigates and resolves all intercollegiate athletics complaints that are filed in a timely manner,[7] fewer than 100 such complaints were filed between October 1991 and June 1996. These complaints represented 0.4 percent of all civil rights complaints filed during that period (see table 1). Most of the approximately 23,000 complaints filed with OCR during that period dealt with other areas of civil rights, including disability, race, and national origin.

Table 1: Title IX Intercollegiate Athletics Complaints Filed With OCR, Fiscal Years 1992-96

Fiscal year	Number of complaints	Percentage of all civil rights complaints
1992	16	0.4
1993	28	0.6
1994	19	0.4
1995	19	0.4
1996[a]	14	0.4
Total	**96**	**0.4**

[a]For the 9 months ending June 30, 1996.

Less Emphasis on Compliance Reviews

OCR's title IX activities have focused recently more on policy development, technical assistance, and complaint investigations and less on assessing schools' compliance with title IX through compliance reviews. Although its strategic plan emphasizes the value of conducting OCR-initiated compliance reviews to maximize the effect of available resources, it conducted only two such reviews in 1995 and none in fiscal year 1996, and it plans none in fiscal year 1997. OCR attributes this decline to resource constraints.

[7]OCR takes action upon those complaints filed within 180 calendar days of the last act of alleged discrimination. OCR can resolve complaints either through an expedited procedure that addresses the specific allegation or through an investigation of an institution's entire athletic program.

As table 2 shows, OCR conducted 32 title IX intercollegiate athletics compliance reviews during fiscal years 1992 through 1996, with the largest number being conducted in 1993.

Table 2: Title IX Intercollegiate Athletics Compliance Reviews Conducted by OCR, Fiscal Years 1992-96

Fiscal year	Number of compliance reviews	Percentage of all civil rights compliance reviews
1992	5	6.5
1993	14	13.6
1994	11	6.9
1995	2	2.1
1996	0	0
Total	**32**	**5.6**

NCAA Has Taken a Variety of Actions Since 1992

NCAA's constitution charges it with helping its member colleges meet their legislative requirements under title IX. Following the 1992 NCAA Gender Equity Study, which showed that women represented 30 percent of all student athletes and received 23 percent of athletic operating budgets, NCAA created a task force to further examine gender equity in its member colleges' athletic programs. NCAA has since implemented the following recommendations made by the task force.

Adopting Gender Equity as an Organizational Principle

NCAA incorporated the principle of gender equity into its constitution in 1994. Recognizing that each member college is responsible for complying with federal and state laws regarding gender equity, the principle states that NCAA should adopt its own legislation to facilitate member schools' compliance with gender equity laws.

Including Gender Equity as a Requisite for Certification

According to NCAA, the Athletics Certification Program, begun in academic year 1993-94, was developed to ensure that Division I athletic programs are accredited in a manner similar to the way academic programs are accredited. The certification process includes a review of Division I colleges' commitment to gender equity.[8] Schools are required to collect such information as the gender composition of their athletic department staff and the resources allocated to male and female student athletes. Schools must also evaluate whether their athletic programs conform with

[8]The other areas examined during certification are commitment to rules compliance; academic integrity; fiscal integrity; and commitment to equity, which includes minority issues and student athlete welfare, in addition to gender. Division II and III schools currently do not require certification.

NCAA's gender equity principle and develop plans for improving their programs if they do not. As of June 1996, NCAA reported that 70 of the 307 Division I schools (or 23 percent) had been certified. The remaining schools are scheduled to be certified by academic year 1998-99.

The certification procedure takes about 2 years to complete and includes site visits by an NCAA evaluation team and self-studies by the schools. Schools not meeting certification criteria must take corrective action within an established time frame. Schools failing to take corrective action may be ineligible for NCAA championship competition in all sports for up to 1 year. If, after 1 year the school has not met NCAA's certification criteria, it is no longer an active member of NCAA. According to NCAA, to date it has not been necessary to impose such sanctions on any school undergoing certification.

Updating the Gender Equity Study

NCAA's 1992 gender equity study reported the results of a survey of its membership's athletic programs. The study will be updated every 5 years, with the next issuance scheduled for 1997. To update the study, NCAA developed and distributed a form to collect information on colleges' athletic programs. The data the form is designed to gather include the information schools must collect under the Equity in Athletics Disclosure Act. Thus, in addition to publishing its gender equity study, NCAA will be able to aggregate the data in reports prepared by colleges under the Disclosure Act. The deadline for submitting data collection forms to NCAA is the end of October 1996.

Expanding Opportunities Through Emerging Sports

To help schools achieve gender equity in intercollegiate athletics as well as to meet the interests and abilities of female student athletes, the NCAA Gender Equity Task Force identified nine emerging sports that may provide additional athletic opportunities to female student athletes. Effective September 1994, NCAA said that schools could use the following sports to help meet their gender equity goal: archery, badminton, bowling, ice hockey, rowing (crew), squash, synchronized swimming, team handball, and water polo. In academic year 1995-96, 122 of the 995 (or 12 percent) NCAA schools with women's varsity sports programs offered at least one of the emerging sports.

Providing Technical Assistance

In 1994, NCAA developed a guidebook on achieving gender equity. The guidebook supplements OCR's title IX guidance and provides schools'

athletic administrators with basic knowledge of the law and how to comply with it. NCAA also coordinates with OCR to provide its member schools—and others—training and technical assistance through title IX seminars. NCAA held two such seminars in April 1995 (the Assistant Secretary for Civil Rights participated in one of the seminars) and two in April 1996. The seminars were attended by athletic directors, general counsels, gender equity consultants, OCR representatives, and others representing groups interested in gender equity in intercollegiate athletics.

States' Gender Equity Efforts Vary Considerably

States promote gender equity in intercollegiate athletics through a variety of means. Over half of the states were involved in promoting gender equity in intercollegiate athletics. To identify state gender equity initiatives, we surveyed state higher education organizations in all 50 states and the District of Columbia. For reporting purposes, we collectively refer to the 51 respondents as states. Overall, 32 of the 51 states (63 percent) had taken some type of action to promote gender equity in intercollegiate athletics. Information provided by the 51 respondents is summarized in table 3; appendix II discusses the responses in more detail.

Table 3: Summary of State Actions to Promote Gender Equity in Intercollegiate Athletics

Type of action	Number of states[a]	Remarks
Developed legislation or other requirements	22	Three states implemented both legislation and other requirements.
Designated a gender equity official or coordinator	13	Four states had full-time positions; nine had part-time positions.
Provided technical assistance and training	11	
Coordinated collection of schools' athletic reports	8	
Coordinated schools' gender equity self-studies	7	
Used indicators to measure schools' progress toward gender equity	8	Most states measured number of female student athletes and number of women's sports.
Either monitored or coordinated schools' compliance with the Equity in Athletics Disclosure Act or planned to do so	11	State action was not required, but most states planned to collect copies of disclosure reports and provide guidance on the act's requirements.

[a]Some actions were implemented by more than one state; therefore, total actions by states exceed 51.

Some respondents also provided observations of conditions that they believe may facilitate or hinder gender equity in intercollegiate athletics at colleges within their states. Conditions that some believed may facilitate gender equity included a commitment from individuals in leadership positions, state gender equity legislation, and a high participation by girls in K-12 athletics. Conditions that some believed may hinder gender equity included insufficient funds; the presence of football programs, which women are unlikely to participate in; and the perception that women are not as interested in athletics as men are.

Studies Show Some Advances in Gender Equity but Women's Athletic Programs Still Are Not Comparable With Men's Programs in Some Respects

The eight studies on gender equity in intercollegiate athletics that we identified showed that women's athletic programs have made slight advances since 1992 toward gender equity as measured by the number of sports available to female students, the number of females participating in athletics, and the percentage of scholarship expenditures for women's sports. The studies also show, however, that women's programs remain behind men's programs as measured by the percentage of female head coaches, comparable salaries for coaches, and ratio of student athletes to undergraduate enrollment.

All eight studies were national in scope and examined gender equity in the athletic programs at NCAA-member schools since 1992. Although most of the studies used surveys, some studies were based on different sample sizes or time periods, making direct comparisons among studies inappropriate. While the studies selectively evaluated the effect of title IX on various aspects of gender equity in intercollegiate athletics, they did not evaluate schools' compliance with title IX. See appendix III for additional information on the studies; see also the bibliography.

Studies Reported Some Advances Toward Gender Equity

The studies reported some advances toward equity between men's and women's intercollegiate athletics:

- The average number of sports offered to women rose from 7.1 in 1992 to 7.5 in 1996, an increase of almost 6 percent.
- Schools in all three NCAA divisions have added women's programs in the last 5 years, which one study attributed to the implementation of title IX legislation.
- An almost equal number of women's and men's sports (about 4.5) used marketing and promotional campaigns designed to increase event attendance.
- In fiscal year 1993, women at NCAA Division I schools received about 31 percent of athletic scholarship funds, an increase of about 3 percentage points from fiscal year 1989. Similarly, women's programs received 24 percent of total average athletic operating expenses, including scholarships, scouting and recruiting, and other expenses—also an increase of about 3 percentage points from fiscal year 1989.
- Female student participation in intercollegiate athletic programs has increased. For example, one study showed that the proportion of female student athletes increased from 34 percent of all student athletes in 1992 to 37 percent in 1995, an annual rate of increase of 1 percentage point.[9]

[9]In 1972, when title IX was passed, women accounted for 15 percent of all intercollegiate athletes.

Studies Reported Women's Athletics Lag Behind Men's Athletics in Some Respects

The studies also showed that women's athletic programs continue to lag behind men's programs in certain respects:

- Most of the head coaches for women's teams are male. In 1996, women accounted for about 48 percent of head coaches for women's teams. This represented a slight decline (0.6 percentage points) from the percentage of female coaches in 1992. In contrast, more than 90 percent of women's teams were coached by females in 1972, the year title IX was enacted.
- Head coaches of women's basketball teams earned 59 percent of what head coaches of men's basketball teams earned, as reported in 1994.
- Women often constituted half of all undergraduates in 1995, while constituting only 37 percent of all student athletes.

Agency Comments

In commenting on a draft of our report, the Department of Education clarified several issues, including the reason compliance reviews have declined, the extent of OCR's work with other agencies in support of title IX policies and procedures, the differences between compliance reviews and complaint investigations, and the context in which coaches' employment is considered by OCR in a title IX review (see app. V). The Department also offered a number of technical changes. In general, we agreed with the Department's comments, and incorporated them into the report, as appropriate.

We are sending copies of this report to the Secretary of Education; appropriate congressional committees; the Executive Director, NCAA; and other interested parties. Please call me at (202) 512-7014 if you or your staff have any questions about this report. Major contributors to this report were Joseph J. Eglin, Jr., Assistant Director; R. Jerry Aiken; Deborah McCormick; Charles M. Novak; Meeta Sharma; Stanley G. Stenersen; Stefanie Weldon; and Dianne L. Whitman-Miner.

Sincerely yours,

Carlotta C. Joyner
Director, Education and
Employment Issues

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Abbreviations

NCAA	National Collegiate Athletic Association
OCR	Office for Civil Rights, Department of Education
WBCA	Women's Basketball Coaches Association

Scope and Methodology

To determine the actions the Department of Education has taken to promote gender equity in intercollegiate athletics since 1992, we interviewed the National Coordinator for Title IX Athletics and analyzed information from the Department's Office for Civil Rights (OCR). We obtained information on the National Collegiate Athletic Association's (NCAA) gender equity actions by interviewing its Director of Education Outreach, Director of Research, and officials in its Compliance Department. We also analyzed documentation they provided.

To identify state gender equity initiatives, we developed a questionnaire and sent it to agencies with oversight responsibility for public higher education in each of the 50 states and the District of Columbia. In nearly all cases, we spoke with staff at the higher education agency. When necessary for clarification, we conducted follow-up telephone interviews. We supplemented this information with supporting documentation provided by state representatives.

The questionnaire went to 56 organizations: 41 higher education boards or boards of regents,[10] 9 state university or college systems, 5 community college systems, and 1 public 4-year institution.[11] Five states had separate higher education oversight organizations for 2- and 4-year institutions. We therefore received two sets of responses from these states, one for 2-year and the other for 4-year institutions. We combined the two sets of responses into one response to reflect the state's gender equity initiatives. We received completed surveys from all 50 states and the District of Columbia.

The questionnaire requested data on the existence of state gender equity officials; type of gender equity initiatives, if any (that is, legislation, requirements, policy recommendations, or other actions); methods used to promote gender equity; indicators used to measure gender equity; actual or estimated trends for each indicator; compliance and guidance efforts associated with the Equity in Athletics Disclosure Act; and conditions that help or hinder gender equity within the state. All information was self-reported by state representatives, and we did not verify its accuracy.

To identify studies on gender equity in intercollegiate athletics issued since 1992, we conducted a literature search and consulted academic experts and professional organizations that deal with gender equity,

[10]Also included were state departments of education, departments of postsecondary education, higher education coordinating boards, and commissions of higher education.

[11]This institution was the only public 4-year higher education organization in its state.

intercollegiate athletics, or both. (See app. IV for a list of organizations contacted for this report. We have also included a bibliography.) The sources we consulted identified eight studies on gender equity in intercollegiate athletics that were national in scope and were issued since 1992. Most of the studies were surveys of NCAA schools. We reviewed the information in the studies and summarized the key findings, but we did not verify their accuracy.

We performed our work between April and August 1996 in accordance with generally accepted government auditing standards.

Summary of Responses to GAO's Survey of State Efforts to Promote Gender Equity in Intercollegiate Athletics

This appendix contains the responses to questions we asked higher education officials in the 50 states and the District of Columbia (referred to in this appendix as 51 states) about gender equity in intercollegiate athletics efforts. All responses reflect statewide gender equity actions.

Table II.1: Does Your Education Agency Have a Designated Gender Equity Official or Coordinator?

Response	Number of states	Percent
Yes, full-time	4	8
Yes, part-time[a]	9	18
No	38	75
Total	**51**	**100[b]**

[a]Amount of time spent on gender equity issues ranged from under 1 percent to 50 percent.

[b]Actual total exceeds 100 because of rounding.

Table II.2: Does Your Education Agency Have Regulatory Authority Over State Public Higher Education Institutions?

Response	Number of states	Percent
Yes	34	67
No	17	33
Total	**51**	**100**

Table II.3: Does Your State Legislature Have Its Own Legislation, Other Than Federal Title IX Legislation, Regarding Gender Equity in Intercollegiate Athletics?

Response	Number of states	Percent
Yes, enacted in 1970s	6	12
Yes, enacted in 1980s	3	6
Yes, enacted in 1990s	4	8
No, but legislation is pending	0	0
No, our state has no such legislation	38	75
Total	**51**	**100[a]**

[a]Actual total exceeds 100 because of rounding.

Table II.4: To Which Institutions Does the Gender Equity Legislation Apply?

Type of schools to which law applies	Number of states
Public colleges and universities	13
Private colleges and universities	2
Community colleges	11
Vocational colleges	7
Secondary schools	7
Elementary schools	7

Notes: Respondents were asked to check all that applied. Thirteen states responded to the question.

Table II.5: Does Your Education Agency Have Its Own Requirements, Policy Recommendations, or Other Actions, Other Than State Legislation, Regarding Gender Equity in Intercollegiate Athletics?

Response	Number of states	Percent
Yes, requirements	4	8
Yes, policy recommendations	2	4
Yes, other action	5[a]	10
Yes, policy recommendation and other action	1	2
No	39	76
Total	**51**	**100**

Note: Respondents were asked to check all that applied.

[a]Responses included (1) developed technical assistance and training materials regarding state legislation, (2) convened the Priority Study Group on Intercollegiate Athletics as an advisory body; (3) sponsored annual conferences on gender equity and technical assistance in applying title IX; (4) published a statement that an equal commitment to access and quality must be made; (5) prepared annual reports to Board of Regents that included data on gender, sports, participation rates, operating budgets, scholarships, and staffing; and (6) carried out a study of the athletic program using NCAA certification criteria during a 1989 pre-test.

Table II.6: To Which Institutions Does the Gender Equity Requirement, Recommendation, or Other Action Apply?

Type of schools to which action applies	Number of states
Public colleges and universities	11
Private colleges and universities	1
Community colleges	9
Vocational colleges	5
Secondary schools	2
Elementary schools	2

Notes: Respondents were asked to check all that applied. Twelve states responded to the question.

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Table II.7: Which Mechanisms to Promote Gender Equity Are Centrally Coordinated by Your Agency on a Statewide Basis?

Type of mechanism	Number of states
Provide technical assistance and training	11
Coordinate institutional reports	8
Coordinate institutional gender equity plans/self-evaluations	7
Conduct enforcement and monitoring	4
Impose sanctions and penalties	4
Coordinate institutional gender equity grievance procedures	3
Other	1[a]
Coordinate institutional student interest and abilities survey	0

Notes: The table shows the mechanisms in the order that they are most often used, not in the order asked in the questionnaire. Respondents were asked to check all that applied. Nineteen states responded to the question; the remaining 32 indicated they did not coordinate such mechanisms statewide.

[a]Oral reports are presented at semi-annual meetings between athletic directors and faculty athletic representatives in an effort to raise gender equity issues.

Table II.8: What Kinds of Indicators Measure the Progress in Achieving Gender Equity in Intercollegiate Athletics?

Indicator used to measure gender equity	Number of states	Trends
Female student athlete participation rates	8	6 increased from 5 to 70%; 2 had no data available
Number of women's sports, teams, or both	8	2 increased, by 3% and 33%; 1 increased but no data available on how much; 5 had no data available
Women coaches' participation rates	6	1 increased by 10%; 5 had no data available
Salaries/compensation for women's coaches and administrators	6	1 increased by 8%; 5 had no data available
Expenditures on women's athletics	5	1 increased by 7%; 4 had no data available
Allocation of state funds to promote gender equity	4	1 increased but no data available on how much; 3 had no data available
Number of gender equity complaints filed	2	2 had no data available
Number of compliance reviews or investigations	1	1 had no data available
Number and type of sanctions imposed	0	
Other	0	

Notes: We told the respondents that several indicators can be used to measure the degree of progress in achieving gender equity in intercollegiate athletics. We asked what indicators, if any, are being centrally coordinated by the state's education agency on a statewide basis. For each indicator, we asked which of the following trends have been observed since legislation or other actions have been taken: increase (___% increase), no change, decrease (___% decrease), or data not available. Answers could be based on actual or estimated data, and respondents were asked to check all that applied. The table shows the mechanisms in the order that they were most often reported, not in the order posed in the questionnaire.

[a]Eight states responded to the question; the remaining 43 states did not use any indicators.

Table II.9: Does Your Office Monitor or Coordinate Postsecondary Institutions' Compliance With the Equity in Athletics Disclosure Act of 1994?

Response	Number of states	Percent
Presently monitors	2	4
Plans to monitor	3	6
Other type of coordination	6	12
Does not monitor	40	78
Total	**51**	**100**

Note: The Equity in Athletics Disclosure Act requires higher education institutions that offer intercollegiate athletics and that participate in any financial aid programs under title IV of the Higher Education Act to disclose annually—to students, prospective students, and the public—information on their women's and men's athletic programs.

Table II.10: How Does Your Office Monitor—or Plan to Monitor—or Coordinate Postsecondary Institutions' Compliance With the Disclosure Act?

Response	Number of states
Request copies of annual disclosure reports from each institution	8
Conduct on-site compliance reviews or other program audits	1
Other	2[a]

Notes: Respondents were asked to check all that applied. Eleven states responded to the question.

[a]Other responses were (1) technical assistance in complying with Disclosure Act requirements and (2) school presidents are responsible for compliance.

Table II.11: Have You Provided Guidance to Ensure Institutions' Disclosure Reports Are Made Easily Available and in a Timely Manner?

Response	Number of states	Percent
Yes	2	4
No, but plan to provide guidance	9	18
No, do not plan to provide guidance	39	76
Do not know	1	2
Total	**51**	**100**

Table II.12: What Conditions Have You Observed Within Your State That Facilitate Gender Equity in Intercollegiate Athletics?

Conditions	Number of states
Commitment to gender equity by campus leadership, athletic directors, board members, or all	8
Support for and increased participation of girls in K-12 athletics	6
Gender equity is a campus priority	5
State legislation	5
Public awareness/support for gender equity or interest in women's athletics	5
Positive attitude/support/climate for women in sports	5
Successful women's teams	4
Federal, state, and campus pressure and support for gender equity	3
OCR and NCAA activities to promote gender equity	3
Students' interests	2
Other	5[a]

Notes: Respondents were asked to check all that applied. Twenty-three states responded to the question.

[a]Other responses were (1) women in leadership positions, (2) intercollegiate competition for women, (3) fear of sanctions against men's sports, (4) losing a gender equity lawsuit, and (5) equity in use and quality of facilities that support athletics.

Table II.13: What Conditions Have You Observed in Your State That Hinder Gender Equity in Intercollegiate Athletics?

Conditions	Number of states
Lack of resources	10
Presence of football teams[a]	7
Negative/unsupportive attitude	6
Lack of commitment from leadership	3
Lack of women in leadership	3
Lack of attention paid to women's sports relative to men's	3
Perceived or actual lack of interest by women in athletics	2
Recruitment pipeline not as strong for women	2
Other	4[b]

Notes: Respondents were asked to check all that applied. Twenty-four states responded to the question.

[a]Some respondents stated that the cost and size of football programs, especially nonrevenue-producing programs, make it difficult to achieve gender equity in athletics. In addition, if football is revenue-producing, it tends to receive greater priority than other sports.

[b]Other responses were (1) fear of reducing resources for men's sports, (2) language is not gender-fair so the socialization girls grow up with hinders gender equity in later years, (3) lack of a coordinated effort across postsecondary systems, and (4) compliance is voluntary because institutions do not have to report their activities to the Commission.

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Summary of Studies on Gender Equity in Intercollegiate Athletics

The eight national studies we identified that were issued between 1992 and 1996 examined various aspects of gender equity within NCAA schools' intercollegiate athletics programs. Because they varied in the time periods they studied, sample size, purpose, and methodology, the studies cannot be compared with each other. While some studies discuss the overall effect of title IX on women's athletics, they do not present sufficient information to determine whether the colleges were in compliance with title IX. The following is a summary of the key findings of each study.

Women in Intercollegiate Sport, a Longitudinal Study, Nineteen Year Update, 1977-1996

Authors and Date of Study: Acosta and Carpenter (1996)

Scope and Time Period Studied: All NCAA schools, academic years 1977-78 to 1995-96

Summary: This longitudinal study examined the number of sport offerings as an indicator of opportunities for women athletes to participate in intercollegiate athletics at NCAA schools. It also reported the percentage of NCAA schools offering each type of sports program. The study identified 24 sports that schools could offer to female students. The percentage of schools offering sports programs to female students in 1996 varied considerably by sport, ranging, for example, from 98.3 percent of schools offering basketball to 0.3 percent offering badminton. In addition, the average number of sports being offered to female intercollegiate athletes generally increased from 7.1 sports per school in 1992 to 7.5 sports in 1996, for all three NCAA divisions (see table III.1). The study noted that the average number of women's sports offered in 1996 was the highest since this information was first reported in 1978. The average number of sports offered per school was also reported for each NCAA division for 1996: 8.3 (Division I), 6.1 (Division II), and 7.8 (Division III).

Table III.1: Average Number of Sports Offered to Female Intercollegiate Athletes by NCAA Schools, Academic Years 1992-96

Academic year	Average number of sports per school
1992	7.1
1993	7.0
1994	7.2
1995	7.3
1996	7.5

The study also examined the percentage of female coaches and female administrators (head athletic directors) as two other indicators of

participation opportunities for women at NCAA schools. The study found that, for women's teams, the percentage of female coaches and female administrators were lower than percentages of male coaches and administrators. While figures for individual years fluctuated, they did not vary much between academic years 1992 and 1996 (see table III.2). The study also noted that the percentage of female coaches in 1996 was the second lowest representation level since title IX was enacted in 1972. By contrast, more than 90 percent of women's teams were coached by females in 1972.

Table III.2: Representation of Women as Coaches and Administrators of Women's Teams at NCAA Schools, Academic Years 1992-96

Academic year	Percent of women's coaches that are female	Percent of women's administrators that are female
1992	48.3	16.8
1993	48.1	[a]
1994	49.4	21.0
1995	48.3	[a]
1996	47.7	18.5

[a]Data not readily available

The study concluded that title IX has had more of a positive effect on participation opportunities for female student athletes than for female coaches and administrators.

Marketing Implications of Title IX to Collegiate Athletic Departments (Preliminary Report)

Authors and Date of Study: Barr, Sutton, McDonald, and others (1996)

Scope and Time Period Studied: Members of the National Association of Collegiate Marketing Administrators at NCAA schools, 1996

Summary: The study of marketing and promotion of women's programs involved a survey of members of the National Association of Collegiate Marketing Administrators. The study preliminarily concluded that NCAA schools and their marketing departments appeared to have good intentions in supporting women's programs, but athletic departments were not adding the personnel needed to effectively market and promote women's sports. The study reported the following:

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- Women's sports received 37 percent of schools' mean athletic marketing budgets. This result was positively correlated with the overall athletic department budget allocated to women's and men's sports.
- The mean number of sports offered at NCAA schools was 9.2 for women and 9.2 for men. Given the relative equality of the two estimates, the study suggested title IX may have had a positive effect on the number of women's sports being offered.
- Marketing and promotional campaigns designed to increase event attendance were used for an almost equal number of women's sports (4.5) and men's sports (4.6); however, the study did not indicate the attendance levels or whether they had increased as a result of marketing and promotional campaigns.
- Schools at each NCAA division level have added women's programs in the last 5 years as a result of title IX legislation; the mean number of women's programs added ranges from 1.0 to 3.5 sports per school. Within Division I-A, the method cited most frequently for deciding what programs to add was direction from an NCAA conference to its member schools to add specific sports. For Division I colleges with no football programs, the most frequent method was the elevation of an existing club sport to the intercollegiate level.
- Not many men's sports programs have been dropped in the last 5 years: the mean number ranged from 0.1 to 1.0 per school. The most common reasons given for reducing men's sports were to comply with title IX and to contain athletic programs' costs.
- No women's sports programs had a full-time staff member devoted to marketing their sports.

Participation Statistics Report, 1982-1995

Authors and Date of Study: NCAA (1995)

Scope and Time Period Studied: All NCAA schools, academic years 1982-83 to 1994-95

Summary: Female student athlete participation rose from 34 percent of all student participation in 1992 to 37 percent in 1995, an increase of about 1 percentage point a year.

Title IX: Fairness on the Field

Authors and Date of Study: USA Today (1995)

Scope and Time Period Studied: NCAA Division I-A football schools, academic year 1994-95

Summary: The study assessed the effects of title IX on college campuses by surveying the 107 NCAA Division I-A schools. The responses for the 95 schools that replied showed the following:

- Women were, on average, 33 percent of student athletes and 49 percent of undergraduates.
- Female athletes received 35 percent of scholarships the schools provided.
- Forty percent of the schools added a women's sport in the last 3 years.[12]
- Fifty-nine percent of the responding schools planned to add at least one women's sport in the next 3 years.

Slow Progress on Equity

Authors and Date of Study: Chronicle of Higher Education (1994)

Scope and Time Period Studied: NCAA Division I schools, academic year 1993-94

Summary: The survey measured progress in achieving gender equity since the 1992 NCAA Gender Equity Study was issued showing disparities in the number of male and female student athletes and the amount of athletic scholarship money they received. The survey concluded that little had changed since the NCAA study was issued. It identified a slight increase in the proportion of female student athletes and their share of athletic scholarship funds; however, participation opportunities and scholarship funds continued to lag behind those for men, even though women constituted over half of the colleges' undergraduates.

Responses from 257 of the 301 NCAA Division I schools showed the following:

- Women made up about 34 percent of varsity athletes and about 51 percent of undergraduates.
- Female athletes received almost 36 percent of scholarship funds.

[12]The second part of the three-part test of compliance with title IX requires schools to establish a history and continuing practice of program expansion for members of the underrepresented sex.

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Revenues and Expenses of Intercollegiate Athletics Programs: Financial Trends and Relationships, 1993

Authors and Date of Study: NCAA (1994)

Scope and Time Period Studied: All NCAA schools, fiscal year 1992-93

Summary: NCAA's study of member schools' expenses found that about 24 percent of the total average operating expenses went to women's programs at Division I schools in fiscal year 1992-93 (see table III.3).

Table III.3: Expenses for Women's Athletic Programs at NCAA Division I Schools as a Percentage of Total Average Athletic Operating Expenses, Fiscal Year 1992-93

Type of expense[a]	Percent of total operating expenses spent on women's programs
Grants-in-aid (scholarships)	30.8
Scouting and recruiting	21.3
Other[b]	20.3
Total average operating expenses	23.5

[a]Administrative expenses are excluded because NCAA reported them in the aggregate and did not allocate them between men's and women's programs.

[b]Includes such items as salaries and wages, equipment and supplies, and team travel.

1992-1993 Survey, Women's Volleyball Programs

Authors and Date of Study: American Volleyball Coaches Association (1995)

Scope and Time Period Studied: Coaches at NCAA schools and schools belonging to other athletic associations or college systems that officially conduct intercollegiate volleyball programs, 1993

Summary: The survey gathered information on various aspects of coaches' compensation, including that of head coaches, at NCAA schools and schools belonging to other athletic associations or college systems with intercollegiate volleyball programs. However, meaningful findings were derived only from NCAA Division I women's intercollegiate volleyball programs. Response rates were lower for all the other schools with volleyball programs. Response rates were particularly low for men's programs, precluding any comparisons between men's and women's programs. For women's volleyball, the survey showed about 48 percent of head coaches were female, and their average base salary was $32,383, about 2 percent less than that earned by males coaching women's volleyball.

1994 Survey of Women's Basketball Coaches Association Division I Head Coaches

Authors and Date of Study: Women's Basketball Coaches Association (WBCA) (1994)

Scope and Time Period Studied: Head coaches at NCAA Division I schools who were WBCA members, 1994

Summary: The survey included an examination of head coaches' salaries, employment contract terms, budgets, and staffing at NCAA Division I schools with basketball programs.[13] Information for both men's and women's basketball programs was provided by the head coach of the women's program. The results showed significant disparities between women's and men's basketball programs in the average base salary for the head coach, coaching contracts, and program budgets (see table III.4). For example, head coaches of women's basketball earned 59 percent of what head coaches of men's basketball earned, and women's average annual athletic budgets were 58 percent of men's budgets. The study also reported that men's basketball programs employed more graduate staff and at higher average salaries than women's programs. For women's basketball programs, however, few differences were found in average base salary and contract terms for male and female head coaches.

Table III.4: Selected Comparisons of Coaches of Men's and Women's Basketball Programs at NCAA Division I Schools, Academic Year 1994

Program	Average base salary for head coach	Length of head coach's contract	Average annual budget[a]
Men's	$76,566	70% had a contract for 3 or more years; 8% had no contract	$253,865
Women's	44,691	51% had a contract for 3 or fewer years; 25% had no contract	148,194

[a]Includes operation, travel, and recruiting; excludes salary.

[13]Although 127 of 246 schools provided information for the survey, only 99 of the 127 respondents provided salary information.

Organizations Contacted for This Report

American Association of University Women, Washington, D.C.

American Council on Education, Washington, D.C.

American Sports Institute, Mill Valley, Calif.

Boise State University, Boise, Idaho

Center for Research on Girls and Women in Sport, University of Minnesota, Minneapolis, Minn.

Council of Chief State School Officers, Washington, D.C.

Eastern Oregon State College, LaGrande, Oreg.

Education Commission of the States, Denver, Colo.

Harvard School of Public Health, Cambridge, Mass.

Moorhead State University, Moorhead, Minn.

National Association for Girls and Women in Sport, Reston, Va.

National Association of Collegiate Women Athletics Administrators, Sudbury, Mass.

National Coalition for Sex Equity in Education, Clinton, N.J.

National Softball Coaches Association, Columbia, Mo.

National Women's Law Center, Washington, D.C.

Princeton University, Princeton, N.J.

Smith College, Northampton, Mass.

Trial Lawyers for Public Justice, Washington, D.C.

University of California, Berkeley, Calif.

University of Massachusetts, Amherst, Mass.

Washington State University, Pullman, Wash.

Women's Educational Equity Act Publishing Center, Education Development Center, Inc., Newton, Mass.

Women's Institute on Sports and Education, Pittsburgh, Pa.

Women's Sports Foundation, East Meadow, N.Y.

Young Women's Christian Association, New York, N.Y.

Comments From the Department of Education

UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

SEP 26 1996

Ms. Carlotta C. Joyner
Director
Education and Employment Issues
General Accounting Office
Washington, D.C. 20548

Dear Ms. Joyner:

Thank you for the opportunity to comment on your draft report to the Honorable Cardiss Collins on the status of efforts to promote gender equity in intercollegiate athletics. This letter represents the Department of Education's comments. We respectfully request that the draft report be revised to incorporate the changes noted in this letter. We would also be happy to meet with you to discuss our comments.

In reviewing this draft report, our attention focused on the discussion of the Office for Civil Rights (OCR), U.S. Department of Education, and its activities, rather than the discussion of other agencies and organizations. Our comments should not be understood as addressing the full range of and details involving OCR's many activities related to intercollegiate athletics. Rather, we limit our comments to clarification of concepts or statements in the draft GAO report which require further explication to be understood appropriately or which need to be corrected.

The location of the statements or discussion in the draft GAO report to which our comments refer is identified by page number(s) in parenthesis.

SUBSTANTIVE CONCERNS/CORRECTIONS

1. To clarify the information on our personnel resources, OCR had 788 full time equivalent (FTE) staff in fiscal year 1995, not 833 as stated in the report. OCR was limited to the 788 FTE that year because its budget appropriation level would not support 833 FTE, which was the ceiling for that year.

2. It would be appropriate and important to note that the Department, through OCR, works to achieve equity in intercollegiate athletic programs **both** through fulfilling its obligation to investigate complaints and through preventive approaches which include **proactive** activities, such as the initiation of compliance reviews, the provision of technical assistance, and policy development. (page 7)

   Accordingly, it would be incorrect to say that OCR places less emphasis on assessing possible violations of schools' compliance through complaint investigations than through

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preventive measures. (page 7) One of OCR's major responsibilities is to resolve timely filed complaints, either through the resolution of complaint allegations by working with recipients to develop and agree to a corrective action plan reflecting compliance with Title IX before the completion of an investigation or through a complete investigation. OCR has no control over the number or type of complaints which are filed. While most of the complaints filed with OCR during the period considered in the draft report alleged discrimination on the basis of disability, race or national origin, and sex (other than intercollegiate athletics), OCR does have and, indeed, does accept the responsibility to process all complaints which are filed. Further, it should be noted that resolution of a single intercollegiate athletics complaint can, depending on the nature of the complaint, provide equal athletic opportunity for a large number of students, such as adding new women's teams or providing additional training facilities for women athletes. This is especially so where the nature of the complaint calls for OCR to consider all or most of the thirteen areas of an athletic program which would be examined in a full investigation. (pages 7 and 11)

3. Following the above clarification, it is crucial to revise the statement in the draft report which suggests that OCR has limited its compliance review efforts in intercollegiate athletics because of "few indications of potential compliance problems" in this area. (page 11) That statement is incorrect. Because of a shortage in resources and available budget, OCR has targeted its limited agency-initiated compliance review budget for particularly acute areas of illegal discrimination that may not be otherwise addressed through complaint investigations, technical assistance, or other proactive activities. These areas have included, for example, the unjustified inclusion of elementary school minority students in special education classes and the underrepresentation of girls, women and minority students in gifted/talented and higher level courses.

While intercollegiate athletics has not recently been a targeted area for the initiation of proactive compliance reviews, that is not to imply that OCR has determined that compliance problems in intercollegiate athletics are limited. OCR continues to resolve and investigate all timely athletic complaints received, to provide technical assistance in this area as resources permit, and to take actions to promote compliance with Title IX as it relates to intercollegiate athletics. These further actions would include, as you have noted in the draft report, the appointment by OCR in 1994 of a National Coordinator to strengthen its enforcement of Title IX and, in 1996, the issuance of written clarification of Title IX's requirements regarding the effective accommodation of students' athletic interests and abilities. This Clarification was issued widely to the public, including

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Congress and presidents of all colleges and universities with athletic programs.

Additionally, the draft report should note that OCR and others in the Department of Education have worked with other executive agencies, such as the Department of Justice, to support longstanding Title IX policies and practices. For example, at the Department's request, the Department of Justice this year filed a brief as amicus curiae on behalf on the appellee/plaintiff in Cohen v. Brown, a case in which the Department's Policy Interpretation on Intercollegiate Athletics was challenged. (pages 7-9)

Beyond these formal actions to clarify OCR's Title IX athletic policies, OCR works routinely in collaboration with school districts, colleges and universities through meetings, conferences, technical assistance presentations, and other outreach and partnership efforts, to promote compliance with Title IX. OCR nationwide has met with state and local legislators, representatives from athletic conferences and individual institutions, executive directors of state athletic associations, and community and advocacy groups to answer questions and offer assistance. In no small part because of OCR's enforcement role, many institutions, athletic associations and athletic conferences have now adopted "gender equity" rules and guidelines and have established "gender equity" task forces designed to promote voluntary action to ensure compliance with the law. (pages 9-10)

ADDITIONAL CLARIFICATION

4. While it is true to say that compliance reviews differ from complaint investigations in that compliance reviews are initiated by OCR, it is not necessarily true to say that compliance reviews cover broader issues or imply that they always affect a significantly larger number of individuals. OCR has investigated numerous complaints were statewide in scope. In the specific area of intercollegiate athletics, resolution of individual complaints has resulted in positive change in major athletic programs, improving opportunities for hundreds of students. (pages 5 and 6)

5. The discussion in the draft report of what has been commonly referred to as the "three-part test" would be enhanced by additional information and more precise language. The 1996 Clarification was issued to address a need identified by OCR for additional guidance on the "three-part test," a test which has been in place since 1979, enjoying bipartisan support in Congress. As the name suggests, this test consists of three separate and distinct parts. Since the three-part test is only one component of an overall

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determination of equal athletic opportunity, meeting the requirements of any one part of the three-part test does not necessarily determine compliance with Title IX. The three-part test itself only determines whether nondiscriminatory participation opportunities are made available. Colleges and universities must satisfy any one part of the three-part test to demonstrate the effective accommodation of the interests and abilities of male and female athletes with respect to the opportunity to participate in intercollegiate competition, and not "at least" one, as stated on page 5 of the report. A separate analysis is done to determine whether colleges and universities effectively accommodate the interests and abilities of male and female athletes with respect to levels of competition. Colleges and universities must demonstrate that athletes of each sex are provided the opportunity to have competitive team schedules which equally reflect their abilities. (pages 4 and 5)

6. In the discussion of the 80 intercollegiate athletics cases where the compliance determination involved a consideration of the three-part test, the draft GAO report observed that 23 percent of the schools have yet to determine how they will comply. To clarify, the remaining 23 percent of the schools have submitted settlement agreements to OCR which obligate them to comply with one part of the three-part test by a date certain. Under the terms of the agreements, these schools have the option of selecting which part of the three-part test they will satisfy, and in some cases, have agreed to conduct assessments of student interests and abilities to assist in this determination. OCR allows a reasonable period of time for these assessments. OCR continues to monitor the implementation of these settlement agreements. (page 9)

7. Among its several enforcement responsibilities, OCR has jurisdiction over Title IX of the Education Amendments of 1972 which prohibits discrimination on the basis of sex in any education program or activity which receives Federal funds from the Department of Education or from Federal agencies over which the Department has been given delegated authority. Therefore, it would not be correct to say that Title IX accords jurisdiction over colleges and universities receiving any type of Federal financial assistance; rather, Title IX jurisdiction is established by virtue of a recipient's receipt of financial assistance from the Department or agencies delegating jurisdiction to the Department. (pages 1 and 4)

8. In the context of this draft report which deals specifically with intercollegiate athletics, to the exclusion of OCR's work under Title IX regarding the athletic programs of elementary and secondary schools, you should note that OCR refers to and makes compliance determinations on the

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intercollegiate athletic programs of both colleges and universities, not just colleges as referenced in parts of the report. Further, to avoid any misunderstanding which could be the result of a change in terminology, we recommend that the reference to "campus" be replaced by college or university, which references would then be consistent with other parts of the draft report and OCR's terminology. (page 8)

9. Page 6 of the draft report should indicate that OCR has never initiated termination proceedings in an athletics case. We have done so, however, for other issues.

10. Finally, a general clarifying comment is in order, given the discussion in the report of employment equality. (pages 1, 4, and 18-20) The draft report considers the number and salary of female coaches as an issue of equality for the women's athletic program; however, under the athletic provisions of Title IX, OCR concentrates on the equal opportunity provided to students to participate in sports.

Again, thank you for the opportunity to comment. If you have any questions about our comments, please feel free to call me, Arthur Coleman, Senior Policy Advisor, at 202/205-5413, or Dr. Mary Frances O'Shea, National Coordinator for Title IX Athletics, at 312/886-8402.

Sincerely,

Norma V. Cantú

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Assistant Secretary
for Civil Rights

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